

**REMARKS**

Claims 1, 2, 8, 9, and 14 are amended, and claims 1-14 are pending. No new matter is added by these amendments. Applicant respectfully requests reconsideration and allowance of all claims in view of the amendments above and the remarks below.

The Examiner requested a copy of "IBM Corporation, S/390 Processor Resource/Systems Management Guide (IBM Pub. No. GA22-7236-04, 5<sup>th</sup> Ed., March 1999." A copy is enclosed herewith as requested by the Examiner.

Claims 2 and 9 are rejected under 35 U.S.C. 112, second paragraph because the phrase "or any well-defined workload measurement units" is vague and indefinite. Claims 2 and 9 are amended to delete the phrase "or any well-defined workload measurement units."

Claims 1-2, 5-9, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borden, "Multiple Operating Systems on One Processor Complex" (hereinafter "Borden") in view of AS/400 Logical Partitions Hardware Planning Guide (hereinafter "AS/400 reference") and Official Notice. Applicant respectfully submits that the claims are patentable over the references because not all the claim elements are taught or suggested by the references, alone or in combination, for the reasons argued below.

Claim 1 recites: "prompting the user to input a quantity of processing power required in terms of partition workload capacity required," which is not taught or suggested by the hypothetical combination of the references. The Office Action argues that this element is taught by Borden at pages 107-109 ("Partition Definition"). Applicant respectfully disagrees because Borden merely recites: "A user must specify the following items: The names of the partitions to be used[,], The I/O configuration[,], The storage configuration[, and] The processor configuration." Thus, Borden does not teach or suggest a "a partition workload capacity required" as recited in claim 1 because "names," "storage configuration," and "processor configuration" do not teach or suggest "partition workload capacity," so Borden does not teach or suggest "prompting the user

to input a quantity of processing power required in terms of partition workload capacity required,” as recited in claim 1. The AS/400 reference and the Official Notice also do not teach or suggest “prompting the user to input a quantity of processing power required in terms of partition workload capacity required,” as recited in claim 1, and the Office Action did not rely on them for such an element.

Claim 1 further recites: “calculating the number of partition processors; wherein the number of partition processors equals the total number of system processors, times the partition workload capacity divided by the system work capacity,” which is also not taught or suggested by the hypothetical combination of the references.

The AS/400 reference recites at page 9: “Relative logical partition performance = (CPW) (# processors in the logical partition/total # of processors,” and the Office Action argued that it would have been obvious to solve this equation for the # processors in the logical partition.

Applicant respectfully disagrees because the AS/400 reference describes the aforementioned equation in the context of: “In creating logical partitions, you can assign any number of available processors to a logical partition. You can assign processor as long as you have at least one processor for each logical partition.” Thus, the AS/400 reference describes “you” (the user) assigning processors and then calculating the performance based in part on the number of processors assigned by the user. In contrast, claim 1 recites that the computerized method calculates “the number of partition processors” based on “the total number of system processors, times the partition workload capacity divided by the system work capacity.” The AS/400 reference has no need or motivation to calculate the number of partition processors as recited in claim 1 because, in the AS/400 reference, the number of available processors are predetermined by the user. Thus, the AS/400 reference teaches away from claim 1. Teaching away is compelling evidence of non-obviousness.

The Office Action took official notice that it would have been obvious to include a margin of error in a calculation. Applicant respectfully traverses this official notice and

requests the Examiner to provide a reference that describes “testing the calculated number of partition processors to determine if it is within a predetermined percentage of a next full processor increment,” as recited in claim 1. Absent a reference, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2).

Claim 1 further recites: “configuring the processors according to the calculated number of partition processors and the recommended use, based on the quantity of processing power required in terms of the partition workload capacity required.” None of the references, alone or in combination teach or suggest this element because Bordon recites “a user must specify ... [t]he processor configuration” (Bordon at Partition definition) and the AS/400 reference recites that “you” (the user) assign the processors (AS/400 reference at page 9). Hence, both Bordon and the AS/400 reference teach away from “configuring the processors according to the calculated number of partition processors and the recommended use, based on the quantity of processing power required in terms of the partition workload capacity required,” as recited in claim 1, which is compelling evidence of non-obviousness.

Independent claims 8 and 14 contain similar elements as previously argued above for claim 1 and are patentable over the references for similar reasons. Claims 2-7 and 9-13 are dependent on claims 1 and 8, respectively, and are patentable over the references for the reasons argued above, plus the elements in the claims.

Claims 1-2, 5-9, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Borden in view of the AS/400 reference, the Official Notice, and LPAR Configuration and Management. The claims are patentable over Borden, the AS/400 reference, and the Official Notice for the reasons argued above. The LPAR reference adds nothing to the deficiencies in the references as previously argued above for claims 1-2, 5-9, and 12-13. In regards to claims 3 and 4, the Office Action relied on LPAR, page 5, which recites: “You can specify processing power in capacity increments of .01 processing units” and “We recommend that you use .25 as the minimum

processing units per partition.” Thus, LPAR describes “you” (the user) specifying or allocating processing units to partitions. In contrast, claims 3 and 4 depend on claim 1, which is “calculating the number of partition processors.” Since the LPAR reference at page 5 describes the user specifying processing power, the LPAR reference teaches away from applicant’s claims, which is compelling evidence of non-obviousness.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Borden. Claim 14 includes similar elements as previously argued above with respect to claim 1 and is patentable over Borden for similar reasons.

Independent claims 8 and 14 contain similar elements as argued above for claim 1 and are patentable over the references for similar reasons. Claims 2-7 and 9-13 are dependent on claims 1 and 8, respectively, and are patentable over the references for the reasons argued above, plus the elements in the claims.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (651-645-7135) to facilitate prosecution of this application.


If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0465.

Respectfully submitted,

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By their Representative,

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